

104TH CONGRESS
1ST SESSION

S. 1425

To recognize the validity of rights-of-way granted under section 2477 of the Revised Statutes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 27, 1995

Mr. MURKOWSKI (for himself, Mr. HATCH, Mr. STEVENS, and Mr. BENNETT) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To recognize the validity of rights-of-way granted under section 2477 of the Revised Statutes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Revised Statutes 2477
5 Rights-of-Way Settlement Act”.

6 **SEC. 2. NOTICE OF RIGHTS-OF-WAY ACROSS PUBLIC LANDS**

7 **GRANTED UNDER REVISED STATUTES SEC-**
8 **TION 2477.**

9 (a) NOTICE OF R.S. 2477 RIGHT-OF-WAY.—

1 (1) IN GENERAL.—Any State, political subdivi-
2 sion of a State, or other holder of a right-of-way
3 across public lands that was granted under section
4 2477 of the Revised Statutes before October 21,
5 1976, or any person who uses or could use such a
6 right-of-way for passage across public lands, shall
7 file with the head of the agency or department man-
8 aging such public lands (referred to in this Act as
9 the “Secretary”) a notice of the right-of-way.

10 (2) FILING OF NOTICE.—The notice shall—

11 (A) be filed not later than 5 years after
12 the date of enactment of this Act;

13 (B) identify the State and political subdivi-
14 sion of a State through which the right-of-way
15 passes; and

16 (C) contain a map and a general descrip-
17 tion of the route, termini, and width of the
18 right-of-way.

19 (b) RECOGNITION OF OR OBJECTION TO RIGHT-OF-
20 WAY BY THE SECRETARY.—

21 (1) IN GENERAL.—Not later than 2 years after
22 the date on which notice is filed with the Secretary
23 under subsection (a), the Secretary shall inform the
24 person who filed the notice, and the State, and polit-
25 ical subdivision through which the right-of-way

1 passes, in writing of any objection to, the right-of-
2 way or any portion of the right-of-way. The Sec-
3 retary shall recognize any right-of-way that was ac-
4 cepted or established—

5 (A) in accordance with the law of the State
6 where the right-of-way is located; or

7 (B) by an affirmative act of a State or po-
8 litical subdivision of a State indicating accept-
9 ance of the grant of the right-of-way.

10 (2) OBJECTIONS.—If the Secretary objects to
11 the right-of-way as filed under subsection (a), the
12 Secretary shall—

13 (A) specifically state any objections that
14 the right-of-way was not legally accepted or es-
15 tablished or is otherwise invalid and any objec-
16 tions to the route or width of the right-of-way,
17 or portion of the right-of-way; and

18 (B) provide the factual and legal basis for
19 each objection.

20 (3) EFFECT OF FAILURE TO OBJECT.—If the
21 Secretary does not object within the 2-year period
22 from the date on which notice is filed, the right-of-
23 way shall be deemed to be valid as it was presented
24 to the Secretary.

1 **SEC. 3. JUDICIAL REVIEW.**

2 (a) QUIET TITLE ACTION RELATING TO OBJEC-
3 TION.—Not later than 2 years after the first date on which
4 the Secretary notifies a holder, or person who filed a no-
5 tice, under section 2(b) of objection to a right-of-way, or
6 portion of a right-of-way, the Secretary may bring an ac-
7 tion based on the objection in the United States district
8 court for the district in which the right-of-way or portion
9 of the right-of-way is located to challenge the validity of
10 the right-of-way or portion of the right-of-way.

11 (b) BURDEN OF PROOF.—In any action brought
12 under subsection (a), the United States shall bear the bur-
13 den of proof on all issues, including, but not limited to,
14 the burden of proving that—

15 (1) the right-of-way was not a public right-of-
16 way;

17 (2) the right-of-way was not accepted or estab-
18 lished in accordance with the law of the State where
19 the right-of-way is located or by an affirmative act
20 of a State or political subdivision of a State indicat-
21 ing acceptance of the grant of the right-of-way;

22 (3) the land on which the right-of-way is lo-
23 cated was reserved for public use at the time of ac-
24 ceptance of the right-of-way; and

1 (4) the width of the right-of-way identified in
2 the notice of the right-of-way exceeds the width per-
3 mitted under State law.

4 (c) **FAILRUE TO BRING ACTION.**—If the Secretary
5 does not bring an action under subsection (a) within the
6 2-year period described in subsection (a), the right-of-way
7 shall be deemed to be valid in the form in which it was
8 filed with the Secretary.

9 **SEC. 4. MANAGEMENT OF LANDS.**

10 (a) The Secretary shall record any valid right-of-way
11 in the appropriate land records and on maps of the Sec-
12 retary and shall manage the land subject of the right-of-
13 way in a manner that does not interfere with the use of
14 the right-of-way.

15 (b) The Secretary, or any public land management
16 official, is hereby prohibited from promulgating any regu-
17 lations relating to R.S. 2477 rights-of-way that are not
18 essential to carry out the express purposes of this Act.

19 **SEC. 5. MISCELLANEOUS PROVISIONS.**

20 (a) **QUIET TITLE ACTION.**—Nothing in this Act shall
21 prevent the holder of a right-of-way described in section
22 2 from bringing an action to quiet title with respect to
23 the right-of-way under section 2409a of title 28, United
24 States Code, nor shall any proceedings taken under this
25 Act be deemed to be a prerequisite to filing any such ac-

1 tion. Such an action may be brought within the period
 2 ending on the later of—

3 (1) 12 years after the date of a notice of objec-
 4 tion from the Secretary under section 2(b)(1); or

5 (2) the termination of the limitation period
 6 under section 2409a of title 28, United States Code.

7 (b) APPLICATION OF STATE LAW.—

8 (1) IN GENERAL.—Nothing in this Act limits
 9 the application of State law in determining the valid-
 10 ity of any right-of-way granted under section 2477
 11 of the Revised Statutes.

12 (2) PROCEEDINGS.—In a proceeding to deter-
 13 mine the validity of such a right-of-way, the law of
 14 the State where the right-of-way is located shall de-
 15 termine the attributes of the right-of-way. The pub-
 16 lished regulations of the Department of the Interior
 17 pertaining to section 2477 of the Revised Statutes
 18 that were in effect on October 20, 1976, shall be
 19 binding on the Secretary in all such proceedings.

20 (c) NEPA.—The National Environmental Policy Act
 21 of 1969 (83 Stat. 852) shall not be construed, in whole
 22 or in part, as requiring the preparation or submission of
 23 any environmental document for any action taken by the
 24 Secretary pursuant to this Act.

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